

CORPORATION, SECURITIES AND LAND DEVELOPMENT BUREAU

RELEASE NO. 97-1-S

TO: ALL INTERESTED PARTIES

SUBJECT: National Securities Markets Improvement Act of 1996

General Background:

On October 11, 1996, the National Securities Markets Improvement Act of 1996 ("NSMIA") was signed into law. The amendments effected by NSMIA discussed below became effective immediately upon enactment. A Technical Amendments Bill is anticipated in the near future. The purpose of this Release is to note the highlights of NSMIA and its effect upon the Michigan Uniform Securities Act (the "Michigan Act").

Action or Interpretation:

NSMIA replaces the existing Section 18 of the Securities Act of 1933. Section 18, prior to the enactment of NSMIA, provided that "nothing in this title shall affect the jurisdiction of the securities commission (or any agency or office performing like functions) of any State...over any security or any person." The new Section 18 preempts the authority of the States to regulate certain securities offerings.

NSMIA preempts state registration requirements for four classes of "covered securities". These "covered securities" are as follows:

- ! Securities listed, or authorized for listing, on the New York Stock Exchange (NYSE) or the American Stock Exchange (AMEX), or listed on the National Association of Securities Dealers Automated Quotation - National Market System (NASDAQ-NMS). This also covers securities of the same issuer that are equal in seniority or that are senior to the foregoing. No filing may be required for such securities. (Note that the NASDAQ-NMS exemption includes only securities which are "listed". At this time it does not include securities which are "authorized" or "approved" for listing as does the Michigan Act.)
- ! Securities issued by an investment company that is registered, or that has filed a registration statement, under the Investment Company Act of 1940.
- ! Securities which are offered and sold to "qualified purchasers", as defined by the SEC by rule. (Such rule has not been issued by the SEC as of the date of this release.)

! Transactions which are exempt from registration pursuant to:

Section 4(1) (i.e., persons other than an issuer, underwriter or dealer) or Section 4(3) (i.e., transactions by a dealer) of the Securities Act of 1933, where the issuer files reports with the SEC pursuant to Sections 13 or 15(d) of the Securities Exchange Act of 1934.

Section 4(4) of the Securities Act of 1933. (i.e., brokers' transactions)

Section 3(a) of the Securities Act of 1933. However, this does not include securities which are exempt pursuant to Section 3(a)(4) (i.e., securities of non-profit issuers) or Section 3(a)(11) (i.e., securities offered and sold only within Michigan).

Section 4(2) of the Securities Act of 1933. This provision does not prohibit a state from imposing notice filing requirements that are substantially similar to those required by rule or regulation under Section 4(2). (i.e., transactions exempt under Rule 506 of Regulation D). (See Release No. 97-2-S)

NSMIA does not prohibit the State from requiring the filing of any document filed with the SEC, together with annual or periodic reports of the value of the securities sold or offered or to be sold to persons located in the State, together with a consent to service of process and any required fee, other than for securities listed on NYSE, AMEX and NASDAQ-NMS. In fact, the filing or registration fees with respect to securities or securities transactions are to continue to be collected in the same amount as in effect on the day before NSMIA went into effect. (For a three year period after the enactment of NSMIA, the State may require the registration of securities issued by any issuer who refuses to pay the fees required. Delays in payment of fees or underpayment of fees that are promptly remedied, do not constitute a "refusal" to pay such fees.)

Michigan will retain securities registration (and review) of NASDAQ small-cap offerings, certain regional exchange offerings, and "pink-sheet" offerings, as well as other such securities that are not listed, or approved for listing, on the NYSE or the AMEX, or listed on the NASDAQ-NMS. Michigan will also retain jurisdiction over Rule 505 of Regulation D and Regulation A offerings.

Authority: National Securities Markets Improvement Act of 1996.

Signed by Craig B. Newell, Acting Director
Corporation, Securities and Land Development Bureau

Dated: April 22, 1997